Sectt. II-27—104,006—4-11-48.

Revenue

Development (195) Department.

MS SERIES.

G.O. NO. 460

38

Dated 30.1.51

[Despatch Abstract.]

Public Servants. Industries Dept. Govt to fix Salaries

Illegal. Sri. A. Appaswamy, Foreman Printing

in Gov. Appeal to Govt. Rejected.

Industries & Commerce Department.

From
Sri M.A. Raju, Bar-at-Law, I.C.S.,
Director of Industries and Commerce,
Madras S. 6.

To
The Secretary to Government,
Development Department,
Fort St. George, Madras.

FIFTH ASSISTANT SECRETARY TO GOVERNMENT
28 JAN 1950
DEVELOPMENT DEPARTMENT

No. 7100-E1/49 dated the 25th January, 1950.

Sir,

Sub:-- Non-Gazetted Officers' Strike--Government Silk Filatures, Kollegal--Sri A. Appaswamy - Intimidation--reduction in pay - appeal

I forward herewith an appeal preferred by Sri A. Appaswami against my order dismissing his appeal against a punitive order passed by the Sericultural Expert, Kollegal.

2. The appellant was a Foreman in the Government Silk Filatures, Kollegal. His pay was reduced by the Sericultural Expert, Kollegal by two stages in the time scale of Rs. 45--3--75 for having intimidated Sri O.V. Chari, Manager, Sericultural Expert's Office when the latter refused to join the Non Gazetted Officer's Strike in December, 1947. His appeal against that order was dismissed by me in this Office D.Dis. 4733-E/49 dated 15--10--1949.

The present appeal to the Government is inadmissible, as no second appeal lies in the matter.

3) In his first appeal before me, the petitioner impugned the order of the Sericultural Expert on three main grounds namely; that the evidence adduced against him was untrustworthy; (ii) that the facts alleged against him did not constitute intimidation and (iii) that the Sericultural Expert was wrong in refusing to examine some of the witnesses cited by him.

4. The charge against the petitioner was that on 15--12--1947 while Sri O.V. Chari was proceeding to the Office, the petitioner as Assistant Secretary of the Non-Gazetted Officer's Association at Kollegal persuaded him to join the Non Gazetted Officer's strike and that when his persuasion failed he abused Sri O.V. Chari in filthy language. The charge was based on the evidence of Sri O.V. Chari, the victim of intimidation and of Janab Ahmed Ismail, Filature Assistant, who was admittedly one of those that had persuaded Sri O.V. Chari to join the strike at the time of the occurrence. No sufficient reason was advanced by the petitioner to dis-credit those two witnesses. In fact, no better evidence could have been secured in a case of this kind. The abuse hurled by the petitioner caused so much fear in the mind of Sri O.V. Chari that he re-traced his steps home without proceeding further to the Office. The petitioner's act thus amounted to blatant intimidation.

5. As regards the third ground urged by the petitioner viz., failure to examine some witnesses, he cited as many as 27 witnesses, fourteen to speak to his presence in Kollegal at the time of the alleged occurrence, five persons to speak to his absence from the place of occurrence, six persons to say that they were not prevented by him from attending office and two others namely the Sub-Magistrate and the Sub Inspector of Police to depose that no complaint of intimidation had been received by them from Sri O.V.Chari The evidence of persons other than those cited to prove his plea of alibi was quite irrelevant to the charge levelled against him. The Sericultural Expert therefore selected two respectable persons from among those cited to prove his alibi and summoned them. The two witnesses received the summonses but did not turn up for the enquiry, apparently because they were not prepared to support the petitioner's plea. The petitioner neither pressed for the examination of the two witnesses nor produced any others for examination. In the circumstances, it cannot be said that there was any improper exercise of the discretion vested in the officer in refusing to call some of the witnesses.

6. Thus there was no substance in any of the contentions raised in the first appeal. The punishment inflicted on the petitioner was in accordance with the instructions issued in G.O. No. Ms. 2223-17/47 Public dated 28--12--1947. In the present appeal, the petitioner urges that in the order

issued on his first appeal, there was no finding that the charge of intimidation was proved and that no reasons were given for dismissing the appeal. As explained above, the charge against the petitioner was clearly proved, When no further appeal lies, it is unnecessary to record any reasons, while dismissing the first appeal.

7. The Sericultural Expert's office file No. 8204-S/47 and this file D.Dis. 4733-B/49 dated 15-10-1949 on the subject are submitted herewith for reference and return.

V. Venkatapathy
28.1.50

for Director of Industries & commerce.

bvs/25-1

5939

From:
A.Appaswamy,
Foreman on leave,
Government Silk Filatures,
Kollegal.

To:
The Chief Secretary to
Government of Madras,
Madras.

Through:
The Sericultural Expert,
Kollegal.

Sir,

This is an appeal from the order of the Director of Industries and Commerce, Madras, in his proceedings R.C. Dis 4713-E-1/49 dated 15th October 1949 which reached me on the forenoon of 29th October 1949.

P1139 (E)

2. The appeal is in time.

3. The order in appeal is opposed to the weight of evidence and the probabilities of the case.

4. There has not been proper appreciation of evidence or of the facts of the case.

5. Under the caption " Read" the order in appeal shows that besides my petition of appeal only a letter from the Sericultural Expert was perused. Connected records are not shown to have been perused. This omission incapaciated the Director from assessing the merits of the case and it led him from the truth and from justice. It may be noted that the Expert took one month or a little over to submit his letter.

6. The order in appeal is lacking both the form and content. It does not contain the grounds leading up to the decision. This is unfair and opposed to the official procedure in vogue. It mearly states that the appeal is dismissed" This singular departure from an accepted course of official procedure should indicate the absence of any grounds that could reasonably support such an order. Keeping the aggrieved person in the dark it disables him from either accepting or assailing the order on merits. The defective is substantive and material and vitiates the order. It deprives him of reasonable means of defence against it.

7. Proceedings such as the one in appeal ~~effect~~ open in the name of the Officer concerned and end with his signature.

The order in appeal has neither the name nor the signature of the Director. One does not either know what officer the subscriber thereto holds in the directorate. A doubt, will not in the circumstances, be unnatural that the matter was not placed in its entirety before the Director. In full knowledge of the facts of the case, the Director could not have passed this unfair order.

8. The indictment against me was one of intimidation. It was the only charge. The records of enquiry either proved it or did not. There ought to be a finding by the Director on this issue. But there is none. In the face of the Expert's finding in the affirmative a finding by the appellate authority would appear to be essential and unavoidable. The failure to give a finding is a vital defect indicating that the matter has failed to receive his attention in all its aspects.

9. Stripped of its verbiage the order of the ~~Periculturist Expert in his No. 3204-S/47 dated 6th~~ April 1949 is to the effect that because Mr. Ahamad Ismail, his only witness and the so called complainant Mr. C.V. Raraghavachari speak alike the charge against him is proved and that the punishment follows. A perusal of appeal to the Director dated 18-4-1949- para 6 would show how instead of proving intimidation Mr. Ismail's evidence disproves it. Para 12 ibid would show what a self seeking, truant the alleged complainant is and how in his attempt to have the cake & eat it too he landed himself in a scrape and in sheer self defence he played into the hands of the Expert and permitted himself to be hoodled by him in to abortive perjury against me.

10. Para 15 ibid would disclose the Expert's malice against me and his motive for his belated and trumped up charge against me. It will also show how the he with open eyes excused or let slip the real culprits in the strike. It

(4)

will further show his foiled hope of booking Mr. Kannan (Manager-Technical.) recoiled on me because I did not choose to be a party to the foul attempts against the Technical Manager.

THE GOVERNMENT SILK FILATURE
16 NOV 1949

11. It will be seen from the records that my appeal was disposed of nearly three weeks after my reminder to the Director and over five months before the order reached me though the matter was simple and the only record perused was a letter from the Expert. Does this ~~reminder~~ indicate that the appeal was held from the Director for a needlessly long time? Who could be interested in delaying disposal but the person who levelled the charge against me? Does not this point to the influence the Expert has over office establishment in the Directorate? The needless delay in and the manner of disposal of the appeal would appear to suggest a suspicion that way. With his malice against me the Expert may not make bones to turn any stone.

12. Crime and punishment go together. The one following the other. But mine will be seen to be a case of no crime and heavy punishment.

13. It is requested that connected records may be sent for and perused.

14. Copies of (1) My appeal to the Director dated 18-5-49
(2) against S.E.'s order 8204-S/47 dt 6-4-49
(3) Director's order No 4733-E1/49 dt 15-10-49
are enclosed for favour of perusal. (₹113 £)

~~15.~~

15. Intimidation is unproved. Nay it is disproved by the statement of Mr. Ismail as much as by the so called complainant.

16. It is therefore prayed that the order in appeal may be cancelled and I may be restored as Foreman.

Yours faithfully.
A. Appaswami

Kollegal.
dt 15-11-49

Copy submitted direct to Save Home

CONFIDENTIAL

Development (DI) Department.

MEMORANDUM NO. 8023DI/50-1 DATED 14-2-50

Sub: Industries - Govt. Silk Filatures, Kollegal - Sri A. Appaswamy, Foreman - Reduction in pay - Appeal.

Ref: From the D. I & C., Madras letter No.7100 E1/49 dated 25-1-50.

From a perusal of the records of the case the Government observe that a number of other members of the staff besides Sri A. Appaswami took unduly active steps during the N.G.O's strike in Dec. 1947 in preventing the loyal staff from attending to their work. In this connection the attention of the D. I & C. is invited to the last paragraph of the Sericultural Expert's Secret letter No.8204-S/47 dated 15-12-48 and he is requested to state whether any punishment has been meted out to the other eight persons mentioned therein and if so, ~~state~~ the nature of the punishments awarded.

To the D. I & C.,
Madras.

Dev (DI) Dept

Memo. No 80023 DI/50 - 2 dated 17 3/50

Pl. issue 17/3

Sub: Industries - Sericulture - Govt. Silk Filatures, Kollegal - Sri A. Appasaravu Foreman - Reduction in Pay - Appeal.

Ref: Govt. (Confdl) Memo. No 80023 DI/50-1 Dev dt/14 2/50

fr 7 returns.

The DJ to is requested to state when his reply to the Memo cited may be expected.

16/3/50 17.3.50

17355

To The DJ to, Madras.

Apollu 21/3

9

Industries and Commerce Department.

Letter No.7100.L1/49. dated 16th June 1950.

From
The Director of Industries
and Commerce,
Macays Gardens, Madras.6.

To
The Secretary to Government,
Development Department,
Fort St.George, Madras.

Sir,

Sub:-- Industries - Government Silk Filatures, Kollegal- Sri A.Appaswamy-Foreman - Reduction in pay - Appeal.

Ref:-- Govt.Memo.No;8023 DI/50-1, Development dt.14-2-50.

The Sericultural Expert who mentioned in his letter No.8204-S/47 dated 15-12-47 the names of nine persons as having taken unduly active steps to prevent the loyal staff from attending to their work, subsequently reported in his letter No.8204-S/47 dated 7-1-48 that disciplinary action was called for against five of them only. As those five seemed to come under category 3 of the catagories specified in G.O.No.S/2223-17/47 dated 28-12-47 the Sericultural Expert was asked in this office memo.No.6142-B3-47 dated 29-2-49 to take suitable action against them in accordance with the instructions issued in the G.O. The Sericultural Expert accordingly framed charges against them and the results of his enquiry are noted below:

Name of the subordinate. (1)	Nature of punishment. (2)
i. Sericultural Section.	
1) Sri T.A.Natarajan, Typist.	The charge of intimidation was held to have not been proved against him as the evidence was discrepant He was however shown to have taken a leading part in the strike for which he expressed his regret. He was therefore let off with a warning.
2) Mr. Shamuddin, Moth Testor.	The charge of intimidation was not proved against him. As a punishment for the leading part he had taken in the strike he was transferred from Kollegal to Palmaner.
ii. Filature Section.	
3) Sri A. Appasamy, Foreman.	As Asst.Secretary of the Local M.G.O. Association, he was the leader of the strike movement in the Filature and Sericultural Sections. He was found guilty of having intimidated the manager of the Sericultural Expert's office for not having joined the strike and his pay in the time scale was reduced by two stages.

P.T.O.

10

4) Sri S.Sidda Chetti,Foreman.	There was no evidence to show that he intimidated anybody in connection with the strike. It was however proved that he actively participated in the strike. As he regretted his action he was let off with a warning.
5)Sri T.V.Thangavelu, Boiler Foreman.	On account of his active participation in the strike and intimidation of loyal workers, he was reverted from the temporary post of Boiler Foreman to the permanent post of Borewell Foreman held by him. The appeal preferred by him against the order reverting him as Borewell Foreman was rejected by the Government in G.O.Ms.No.3320 Development dated 22-6-49.

This office file D.Dis 4733 E/49 dated 15.10.49 is submitted herewith.

(T)

V. Venkatarayudu
19.6.50

(S)

for Director of Industries & Commerce.

TRS/19/6.

Confidential

· 11 +7

Development (MI) Department.

MEMORANDUM NO. 8023 MI/50-5 DATED 26.6.50.

Sub: Industries - Government Silk Filatures, Kollegal Sri A. Appaswami, Foreman - Reduction in pay - Appeal.

Ref: From the D. I & C., Lr. No.7100 E1/49 dated 25-1-50.
From the D. I & C., Lr. No.7100 E1/49 dated 16-6-50.

In para 10 of his appeal, the appellant has stated that Sericultural Expert's foiled hope of booking Mr. Kannan (Manager Technical) recoiled on him because he did not choose to be a party to the foul attempts against the Technical Manager. The D. I & C., is requested to offer urgently his specific remarks on this allegation.

To the D. I & C.

13.

62984

CONFIDENTIAL:

Rec'd in records on 12.7.50

No.7100 E1/49.

Department of Industries and Commerce,
Cathedral P.O., Madras. 6
Dated the 10th JULY 1950

From

Sri M.T. RAJU, Bar-at-Law, I.C.S.,
Director of Industries and Commerce,
Madras.

To

The Secretary to Government,
Development Department,
Fort St George, Madras.

Sir,

Sub: Industries - Government Silk Filatures, Kollegal - Sri A.Appaswami, Foreman - Reduction in pay - Appeal.

Ref: Government Memo No.8023 MI/50-4 Dev. dated 26-6-50.

The allegation of Sri Appaswamy referred to in the Government Memo cited is without any foundation.

V. Venkatarayudu 10.7.50

for Director of Industries and Commerce.

8/10/7

C.F. 16.

DRAFT FOR APPROVAL.

pl. issue
23.1.51

	Date.	Initials.
When received for fair copying ..		[illegible]
When copied ..		[illegible]
When examined ..		[illegible]
When signed ..		31/1
When despatched.		31/1

SUBJECT :— public Servants. Industries Deptt - Govt Silk Filatures, Kollegal. Sri. S. Appaswamy, Foreman. Reduction in pay - Appeal to Govt. rejected.

READ AGAIN ....., dated ..... 19.....

" " ..... " ..... 19.....

READ *ALSO* :—

pp 1-2 cf No. ..... From the D. Ite madras, No. 7100E1/49 dated 25-1-1950

p 138- " ..... " D. Ite " " 7100E/49 " 10-7-1950.

" ..... " ..... " ..... " ..... 19.....

Order ~~Resolution~~ Ms. No. 460, dated 30/11/1951

Govt ordered in Ms. No. 1320-

The Government reject

The appeal of Sri. S. Appaswamy is rejected.

The D. Ite is requested to inform the appellant accordingly.

The records submitted by the D. Ite are returned herewith.

Special section.
30/1/51

B.O.
22-1-51

22/1/51.

23-1-51

To The D. Ite, madras

(with record in original) by special messenger

at (1), (2), (E)

C.No.8023 DI/50.

Industries - Government Silk Filatures, Kollegal - Sri A. Appaswamy, Forema - Reduction in pay - Appeal.

[Ref: From the D. I & C., Madras letter No.7100 A1/49 dated 25-1-50.]

Please see the remarks of the D. I & C., at pp. 1-2 c.f. on the appeal petition of Sri Appaswamy, at pp.3-5 c.f.

2. Sri A. Appaswamy, Foreman of the Government Silk Filatures, Kollegal was reduced in his pay by the Sericultural Expert by two stages in the time scale of Rs.45-3-75 for having intimated Sri O.V.Chari, Manager, Sericultural Expert's Office when the latter refused to join the N.G.O's strike in December 1947. The following charge has been framed against Sri A. Appaswami:-

"That he, on 15-12-47 at or about 11-15 A.M. obstructed Sri C.Veeraraghavachari, Manager, Office of the Sericultural Expert, Kollegal, near the bridge on the way to the Government Silk Filature from his going to office, this guilty of an act of intimidation against a Government servant who did not join the strike punishable under Rule 15(b)(i) of the Madras Civil Services (Classification, Control and Appeal) Rules."

The enquiry into the charge of intimidation by Sri A. Appaswamy was duly held by the Sericultural Expert who came to the conclusion that the charge of ~~guilty of act of~~ intimidation against Sri A. Appaswamy has been proved. The sericultural Expert accordingly meted out the punishment to Sri A. Appaswamy ~~has been proved. The sericultural Expert accordingly meted out the punishment to Sri A. Appaswami~~ by reducing his pay by two stages in the time scale of Rs.45-3-~~XX~~ 75. Against this order of reduction in pay the petitioner preferred an appeal to the D. I & C. The Director while dismissing the appeal of the petitioner modified the order passed by the Sericultural Expert as follows:-

"The reduction of Sri A. Appaswami to a lower stage in his time scale of pay shall be effective for a period of two years on the expiry of which he will begin to earn increments; and the period of two years for which the reduction has been ordered will be exclusive of any interval spent on leave before the period is completed".

3. Sri A. Appaswami has now put in this second appeal

appeal to Government. The Director says that this appeal to Government is inadmissible, as no second appeal lies in the matter. But the present petition may be treated as a memorial to Government and the case examined. Further from a perusal of the records of the case it is observed that a number of other members of the staff besides the petitioner took unduly active steps in preventing the loyal staff from attending to their work but so far no punishment appears to have been meted out to them. Before proceeding further it seems desirable to ask the D. I & C. to state whether any punishment has been meted out to the other N.G.O's mentioned at K on p.2 of (Z) and if so to state the nature of the punishments awarded. A draft memo is submitted for approval.

M on p. 1 cf
ascertaining from the Public (Service
Vide K on f. 2 of (Z)

11.2.'50 13/2/50

[Issued as Memo. No 8023DI/50-1 Dev dated 14-2-50]

From the D.I.& C. Lr No 7100 E1/49 dt 16.6.50

To AS

Please see the letter from the D.I&C on pp 13-14 cf w.r.t enemo on p 7 cf. The D.I&C has not offered his remarks on para 10 of the appeal on pp 4-5 cf. The D.I&C may be asked to offer his specific remarks on this. A draft om is submitted below for approval.

BOS 24.6.50 24/6/50

Issued as Memo No 8023 DI/50-5 dt 24.6.50
From the D.I&C Lr No 7100 E1/49 dt 10.7.50 — 24.6.50

The file deals with the appeal preferred to the Govt. by Sri A. Appaswami, a foreman in the Govt. Silk Filatures, Kollegal whose pay in the scale of Rs. 45-3-75 was reduced by the Sericultural Expert by two stages on a charge of having intimidated Sri O. Veeraraghavachari, Manager, Sericultural Experts' Office when the latter refused to join the N.G.O.'s strike in Dec. 1947 The D. I & C. while rejecting the appeal preferred to him, ordered that the reduction of the appellant to the lower stage shall be effective for a period of two years on the expiry of which he would

para 2 on p 1 cf
p 38 cf
D.I&C's D Dn 4733/1/49 dt 15-6-49

p38 of (T) begin to earn increments and that the period of two years would be exclusive of any leave taken by the appellant. A brief history of the case is given below.

pp 1-2 of (E) 2. Sri O. Veerarraraghavachari, Manager, Sericultural Experts' Office brought to the notice of the Sericultural Expert in his letter dated 17.12.47 that on

-do- 15.12.47 when he was at the bridge on his way to the office he was requested by a group of strikers and specifically by Mr. Ismail, Filature Asst., Mr. Thangavelu Boiler Foreman and later by the appellant, in his capacity as the Asst. Secy. of the local N.G.Os Association to abstain from going to office and that when he refused to comply with the request Mr. Thangavelu threatened him with bodily injury and that the appellant abused him in filthiest language but allowed him to go. The Manager also represented that apprehending bodily injury, he returned home. On this record, a charge was framed against the appellant, viz., that he was guilty of intimidation against those who did not join the strike and the appellant was asked to show cause why he should not be discharged from service. The appellant represented that the charge was not specific, that the grounds for the charge had not been indicated and that he was not guilty. Subsequently a copy of the Manager's letter was furnished to the appellant in support of the charge. The appellant thereafter made a representation that he might be enquired into by an officer other than the Sericultural Expert. The D. I & C. on 16.9.48 refused to grant this request and pointed out to the Sericultural Expert that the procedure adopted by him was not in order, that the prodedure laid down in the Civil Services (Classification, Control and Appeal) Rules should be followed and that the penalty prescribed by the Govt. for intimidation was only reduction by two stages in the

-do- pp 33-34 of (2).

-do- p 35 of (2).

pp 41-43 of (2)

para 4 on p 61 of (2)

pp 79-81 of (2)

-do-

time scale of pay or stoppage of increment for two years and not discharge as indicated by him in the memo. of charge against the appellant. The Dir. therefore asked the Sericultural Expert to frame fresh charges and proceed with the case in a more judicious manner.

3. Fresh specific charge was framed against the appellant on 20.11.48. The appellant again pressed that the enquiry be held by an officer other than the Sericultural Expert, denied the charge brought against him and desired to cross examine Sri Veeraraghavachari and Ismail and other 28 respectable witnesses during the oral enquiry. Only the following persons were however summoned to give evidence during the oral enquiry:-

Sri O. Veeraraghavachari, Manager.

Sri Ahmed Ismail, Filature, Assistant.

Sri A. Masana Chettiar, President, Panchayat Board.

Sri R. Venkataraman, Insurance Agent.

Sri Seetharaman, Asst. Foreman.

Sri Thangappan, Asst. Foreman.

Sri K.R.N. Venkatesan, Pathology Asst.

Sri P. Javarayya Setty, Motor Tester.

At the oral enquiry Sri Veeraghavachari deposed that when entreaties failed, the appellant lost his temper and indulged in obscene language in Kanarese which he could not clearly understand but he knew that the language was not polite and that the appellant then left the place saying that he would bring the Secretary of the local N.E.O.'s Association. As Sri Veeraraghavachari felt that there was no chance of his going to office and with a view to avoiding an embarassing situation he returned to his house. In the cross examination by the appellant Sri Veeraghavachari said that the former used slang words common among the lower class of people.

Mr. Ahmed Ismail deposed that the appellant said

that Sri Veeraghavachari might be allowed to go away, that therafter the appellant having lost his temper indulged in obscene and slang language in Kanarese against Sri Veeraghavachari and that subsequently the appellant left the place. On cross-examination Mr. Ismail said that he knew and talked Kanarese a little.

Sri K.V. Venkatesan, Pathology Assistant, Kollegal deposed that he was not in favour of strike, that the strikers appealed to him to refrain from attending office and that there was neither insulting talk nor forcible prevention by them against one from attending office.

Sri R. Seetharaman, Asst. Foreman deposed that the appellant said to him that he should not go to office till the N.G.O.'s grievances were set right, that there was no threat offered to him by the appellant but he was afraid that one of the strikers who was patrolling round might harm him.

Sri A. Thangappan, Assistant Foreman deposed that the strikers merely appealed to Sri Veeraraghavachari not to go to office.

Sri P. Javerayya Setty, Sri A. Masana Chettiar and R. Venkataraman who were also summoned did not appear to give evidence.

4. The Sericultural Expert considered it unnecessary to summon all the other witnesses cited by the appellant to give evidence. Sericultural Expert's notes containing his conclusion are extracted below:-

> "From the evidence adduced by the witnesses in the enquiry it is clear that Sri A. Appaswamy detained Sri O. Veeraraghavachari from going to office and that

having failed in his attempts, he indulged in foulest and offensive language. It is clear also that Sri A. Appaswamy was present at the bridge between 11 a.m. and 12 noon. The important witnesses are Sri O. Veeraraghavachari and Mr. Ahmed Ismail, whose evidences are clear enough to show that Sri A. Appaswamy was present at the bridge between 11 A.M. and 12 Noon and that he detained Sri O. Veeraraghavachari from going to office on 15.12.1947 and that he indulged in offensive language when his efforts to persuade Sri O. Veeraraghavachari to join the strikers proved abortive. The other witnesses in the enquiry having given evidence show how actively Sri A. Appaswamy and other members of staff in the Government Silk Filatures were moving about to make the Non-Gazetted Officers' strike effective.

'K' on p 57 (E)

- do -

The detention of Sri O. Veeraraghavachari a loyal non-gazetted officer from going to office at the bridge on 15.12.1947 and indulging in abusive and offensive language would amount to cow down Sri O. Veeraraghavachari and thereby to influence the conduct of Sri O. Veeraghavachari in the Non-Gazetted Officers' strike. From the evidences adduced by the witnesses in the enquiry, I come to the conclusion that the charge of guilty of act of intimidation against Sri A. Appaswamy has been proved."

- do -

- do -

5. The appellant was thereafter informed of the conclusion and asked to show cause why his pay should not be reduced by two stages in the time scale. The appellant in reply referred to his reversion as operative in Sericultural Experts Proceedings d/ 27.2.49, and said that reversion itself was a glaring reduction, that no charge of intimidation was proved against him and that hence no question of any punishment did arise at all. The Sericultural Expert in his proceedings d/ 6.4.49 held that the charge of intimidation against the appellant had been proved and ordered that the pay of the appellant be reduced by two stages in the time scale of the post held by the appellant on that date.

6. The appellant submitted on 18.5.1949 an appeal to the D. I & C. against the orders of the Sericultural Expert. In his appeal he alleged that the first charge d/ 12.3.48 against him, viz., that he was guilty of the act of intimidation against those who did not join the strike, was vague, that a fresh charge was framed against him after 8 months which was based on the complaint of Sri Veeraraghavachari, that hence the complaint referred to was got ready later to substantiate the charge , that the copy of the complaint furnished to him had not been authenticated, that it was also not a full copy of the complaint, that Sri Veeraghavachari and Mr. Ismail deposed that he used abusive language while Sri Venkatasami, Pathology Asst. Sri Seetharaman, Asst. Foreman and Thangappan, another foreman did not corroborate the statement that he scolded Sri Veeraraghavachari, that the appellant after asking the strikers to let Sri Veeraraghavachar go, left the place, that Sri Veeraraghavachari instead of staying at the bridge till 12 noon and returning to his house, could have gone to the office if he desired, that he offered no threat to Sri Veeraghavachari, that Sri Veeraraghavachari made an attempt to please both the Govt. and the strikers, that the complaint made on 17.12.47 about the occurrence on the 15th was not a genuine one, that Mr. Ismail's evidence

should not be taken as reliable as he had to be in the good books of the Sericultural Expert, and that most of the witnesses cited by the appellant were not summoned. He, therefore, requested that the Sericultural Expert's order be cancelled and that he be restored to his previous status.

7. The appeal was forwarded by the Sericultural Expert to the D. I & C. after a period of one month viz., on 20.6.49. ~~The appeal was forwarded by the Sericultural Expert to the D. I & C. after a period of one month viz., on 20.6.49.~~ The D. I & C.'s office took over 2 months to put up the appeal to the officer with a note. The P.A. took another 2 months to put up the case to the D. I & C. and orders were passed by the D. I & C. immediately. The P.A. in his note pointed out that there was no sufficient grounds for disbelieving the evidence of Sri Veeraraghavachari and Mr. Ismail, that to intimidate was to threaten the person with injury to his person, reputation or property with intent to cause alarm to that person or to cause to him to do any act which he was not legally bound to do or to omit to do any thing which he was legally entitled to do, that in the present case the action of the appellant amounted to something more than intimidation since he actually abused Sri V. Chari causing alarm in the mind of the latter and making him to retrace his steps home without proceeding to office. The P.A. also pointed out there was no abuse of the discretion by the Sericultural Expert in the selection of witnesses, that the appellant did not think fit to produce any witnesses who might speak in support of his plea nor press for the examination of the two witnesses who absented themselves. The P.A. therefore, considered that there was no cause for interference on behalf of the appellant. He, however, pointed out that the Sericultural Expert's order was defective in that it did not, with reference to F.R. 29, say that the period for which the reduction would be effective and whether on restoration it would operate to postpone future increments and, if so, to what extent. He, therefore, suggested that the Director, as appellate authority might order that the reduction should be effective for a period of two years on the expiry of which the appellant would begin to earn increments

and that the period of 2 years should be exclusive of any period spent on leave before the period was completed.

'N' ... (T) The D. I & C. agreed with the P.A.'s view and orders were issued by the D. I & C. dismissing the appeal and modifying the Sericultural Expert's orders as suggested by the P.A.

pp 3-5 cf

8. The present appeal to the Govt. is against the order xxxxxxxxxxxxxx of the D. I & C. No statutory appeal lies to the Govt. The present appeal may, however, be treated as a memorial to the Govt. and the case examined.

The grounds urged in the appeal are enumerated below:-

pp 3-5 cf

(1) The D. I & C.'s order does not show that all connected records were gone through by the Dir. before he passed orders. It does not contain the grounds leading to the rejection of the appeal. It is lacking both in form and content and that it has neither the name nor the signature of the Dir.

- do

(2) The Dir. does not record his finding as to whether there was intimidation on the part of the appellant.

(3) Mr. Ismail was the only witness to support the charge but his evidence disproved the allegation.

(4) The Sericultural Expert had malice against the appellant and his influence over the Dir.'s office caused delay in the disposal of the appeal by the D. I & C.

- do -

The appellant therefore requests that the Dir.'s order may be cancelled and that he may be restored as foreman.

Point (1). From the Dir.'s Office record at (T) is seen that all the connected records were placed before the Dir. before he came to a decision. The Dir.'s order was passed in the form of Proceedings without his name but with his designation and it was signed by the P.A. on behalf of the Dir. Submitted that there appears to be no irregularity.

Point (2). It does not appear necessary to give the reasons in the order for rejecting the appeal.

Point (3). It is true that other than the complainant

Mr. Ismail is the only witness who corroborated the charge against the appellant. The other three witnesses did not refer to the abusive language used by the appellant. For orders whether any benefit of doubt need be given to the appellant. pp 43, 46 (E) & pp 47, 51 (E)

Point (4) There does not appear to be anything to support the allegation of the appellant.

For orders whether there is any case for interference by the Govt. The remarks of Pub (Ser) may be invited.

24/5/57 Do Sri O. Veeraraghavachari and Ismail know Kanarese language very well? Unless a man knows the language very well he cannot understand slang words or abusive language. Is it anywhere stated what actually Sri Appasami said? The whole thing appears to be vague with no details to prove the complaint of Sri Veeraraghavachari of intimidation. Please examine.

25/5/57

To A.S.

In the cross examination by the appellant Sri Veeraraghavachari deposed that he knew canarese a little bit. He also said that though he could not reproduce the exact words used but he knew they were slang words having heard from low class people. He also added that the canarese terms 'Bolimakkala' and 'Sollaimakkala' were addressed to him. The above terms respectively mean "widow's sons and "sons of prostitutes." Janab Md. Ismail deposed that he knew canarese and could understand and also speak a little. But he said that he could not remember the exact words Sri Appaswamy used but he could guess the purport. He simply styled the words as discourteous language.

There is no sufficient material to determine with certainity the exact words used. ~~Itdeserves consideration whether even such~~

Even granting that 'Bolimakkala' and 'Soolaimakkala' were uttered by the appellant, it may be pointed out that the terms being plural, could not be taken as having been addressed to a single individual. Most probably the terms were addressed to the crowd at the place and not specifically to Sri Veeraraghavachari. These terms can ~~by~~ be styled only as mild abusive language spoken in general when one's object is not achieved as expected and when one is dissatisfied with the course of things happening. Such general terms ~~addressed to the crowd~~ could not have caused Sri Veeraraghavachari to retract his steps to his house. It is also seen that the appellant left the place after asking the strikers to let Sri Veeraraghavachari go as he liked. It is therefore difficult to admit that Sri Veeraraghavachari was upset by the abusive words uttered sometime ago by a person who left the place ~~soon after~~ and who was no longer in the way—as a matter of fact no other obstacle was in the way—of Sri Veeraraghavachari going to office. ~~doing anything he desired.~~ Further such general terms could not upset one who had decided once for all to attend office. ~~and could not have caused him retrace his steps to the house.~~ It is also very important to note that out of 5 witnesses only two deposed that the appellant used abusive language while the other three denied having seen the appellant using abusive language. In the circumstance it is for consideration ~~whether the~~ whether the charge of intimidation by the appellant could be taken as proved.

singular
Bolimagane
Soolaimagane.

18.50

1.8.50

Pub(Sri)

I am afraid I can't agree with AJ. whether the abusive words used were correctly heard or understood or not, there is no doubt that the appellant used

intimidation is a legal offence to make him take part in a N.J.O.S strike. We need not therefore quibble about the singular and the plural meanings of the word used.

There is no irregularity, impropriety, serious, or to initiate the action taken.

The appeal may be rejected. | A

B.N.N.

Dev (Ser)

Publ(Ser) Dept.

Dev (Ser) 8023 mj/50-6
26-12-50.

ASSISTANT SECRETARY TO GOVERNMENT
27 DEC 1950
6292
27/12/50
CHIEF SECT.

The note from the bottom of p2 ante may be perused. This dept may agree that the memorial ~~appeal~~ be rejected and return the case to Dev. If it is proposed to consider the memorial the Comm^n. will have to be consulted.

30.12.50

30.12.50

1.1.51

AS. 3/Dev.

TOAS

Dev(mj)

C.no 6038
30-12-50
Jt. Secretary to Govt.
Jt. Secretary (Ser. A)
0 JAN 1951
31/1/51
Publ. Ser. Dept.

(Notes from p2 above may be read)

Secretary's note at A above and publ (Ser) Dept notes above may be perused. The case may

6292/50-1

Dev 2905 mj dated 5-1-51.
8.1.51.

Now be circulated to Hon(Sec) for orders whether the appeal may be rejected or the Service Commn may be consulted.

BC 12-1-51. 1218

12-1-51 DS 6.1.51

H M C Qadri may be rejected ef 18/1

M 7.9-1-51

SECRETARY TO GOVERNMENT 19 JAN 1951 DEVELOPMENT DEPARTMENT

To AS

M Aslam

(Order in circulation above)
A draft order is submitted for approval.

DE 46

BC 22.1.51. 2218

23.1.51 DS

2/1/51

(Issues as per 460 Dated 30.1.51)